

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 485

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO THE UNCLAIMED PROPERTY LAW; AMENDING SECTION 14-113, IDAHO CODE, TO PROVIDE FOR TRANSFER OF MONEYS AND EFFECTS OF AN ESTATE TO THE STATE TREASURER; AMENDING SECTION 14-501, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 14-518, IDAHO CODE, TO PROVIDE FOR NOTICE AND PUBLICATION OF LISTS OF ABANDONED PROPERTY TO BE ON A WEBSITE MAINTAINED BY THE STATE TREASURER; AMENDING SECTION 14-523, IDAHO CODE, TO PROVIDE FOR DISPOSITION OF MONEY RECEIVED TO THE STATE TREASURER; AMENDING SECTION 14-532, IDAHO CODE, TO PROVIDE TO THE STATE TREASURER POWERS, DUTIES AND ADMINISTRATIVE RULE AUTHORITY RELATED TO UNCLAIMED PROPERTY LAW FORMERLY GRANTED TO THE STATE TAX COMMISSION; AMENDING SECTION 14-534, IDAHO CODE, TO PROVIDE FOR THE STATE TREASURER TO DELIVER CERTAIN PROPERTY TO THE STATE HISTORICAL SOCIETY; AND PROVIDING AN EFFECTIVE DATE, PROVIDING FOR TRANSFER OF EMPLOYEES, CERTAIN TANGIBLE PERSONAL PROPERTIES AND ENCUMBERED AND APPROPRIATED MONEYS OF THE STATE TAX COMMISSION FOR ADMINISTERING THE UNCLAIMED PROPERTY LAW TO THE STATE TREASURER AND TO PROVIDE FOR THE EMPLOYMENT STATUS OF THOSE EMPLOYEES.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 14-113, Idaho Code, be, and the same is hereby amended to read as follows:

14-113. UNCLAIMED MONEYS -- PAYMENT INTO PUBLIC SCHOOL PERMANENT ENDOWMENT FUND -- ESCHEAT. After a final settlement of the affairs of any estate, if there be no heirs or other claimants thereof, the administrator must pay into the ~~state tax commission~~ office of the state treasurer any and all moneys and effects which shall accrue and be transferred to the public school permanent endowment fund created pursuant to section 4, article IX, of the constitution of the state of Idaho.

SECTION 2. That Section 14-501, Idaho Code, be, and the same is hereby amended to read as follows:

14-501. DEFINITIONS AND USE OF TERMS. As used in this chapter:
(1) "Administrator" means the state ~~tax commission~~ treasurer or ~~its~~ his/her duly authorized agents or employees.
(2) "Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder.
(3) "Attorney general" means the chief legal officer of this state.
(4) "Banking organization" means a bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, or any organization defined by other law as a bank or banking organization.

(5) "Business association" means a nonpublic corporation, limited liability company, joint stock company, investment company, business trust, partnership, or association for business purposes of two (2) or more individuals, whether or not for profit, including, but not limited to, a banking organization, financial organization, insurance company, or utility.

(6) "Domicile" means the state of incorporation of a corporation and the state of the principal place of business of an unincorporated person.

(7) "Financial organization" means a savings and loan association, cooperative bank, building and loan association, investment company, or credit union.

(8) "Holder" means a person, wherever organized or domiciled, who is:

(a) In possession of property belonging to another;

(b) A trustee; or

(c) Indebted to another on an obligation.

(9) "Insurance company" means an association, corporation, fraternal or mutual benefit organization, whether or not for profit, which is engaged in providing insurance coverage, including accident, burial, casualty, credit life, contract performance, dental, fidelity, fire, health, hospitalization, illness, life, including endowments and annuities, malpractice, marine, mortgage, surety, and wage protection insurance.

(10) "Intangible property" includes:

(a) ~~Monies~~ Moneys, checks, drafts, deposits, interest, dividends, and income;

(b) Credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances;

(c) Stocks and other intangible ownership interests in business associations;

(d) Amounts paid for tickets, passes or vouchers to gain entrance to a scheduled event where the scheduled event was ~~cancelled~~ canceled and not rescheduled, and the owner of the tickets, passes or vouchers is entitled to a refund in cash, services or merchandise;

(e) ~~Monies~~ Moneys deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions;

(f) Amounts due and payable under the terms of insurance policies;

(g) Amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits; and

(h) Any interest created by a judgment entered in any court of competent jurisdiction in favor of persons who are members of a class of persons defined by the court entering the judgment.

(11) "Last known address" means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail.

(12) "Owner" means a depositor in the case of a deposit, a beneficiary in case of a trust other than a deposit in trust, a creditor, claimant, or payee in the case of other intangible property, or a person having a legal or equitable interest in property subject to this act or his legal representative.

1 (13) "Person" means an individual, business association, state or other
 2 government, governmental subdivision or agency, public corporation, public
 3 authority, estate, trust, two (2) or more persons having a joint or common
 4 interest, or any other legal or commercial entity.

5 (14) "State" means any state, district, commonwealth, territory,
 6 insular possession, or any other area subject to the legislative authority
 7 of the United States.

8 (15) "Utility" means a person who owns or operates for public use any
 9 plant, equipment, property, franchise, or license for the transmission of
 10 communications or the production, storage, transmission, sale, delivery, or
 11 furnishing of electricity, water, steam, or gas.

12 SECTION 3. That Section 14-518, Idaho Code, be, and the same is hereby
 13 amended to read as follows:

14 14-518. NOTICE AND PUBLICATION OF LISTS OF ABANDONED PROPERTY. (1)
 15 The administrator shall establish, maintain and update at least quarterly a
 16 current list of all reported owners of abandoned property on a website that
 17 is connected to or that may be accessed from the website maintained by the
 18 state ~~tax commission~~ treasurer. At least one (1) week before each quarterly
 19 website posting of such list, the administrator shall publish a notice in the
 20 official newspaper of each Idaho county stating when and where the quarterly
 21 website listing of Idaho abandoned property will be accessible to citizens.
 22 Provided however, the names and addresses of owners located in a state which
 23 will receive the accounts because of reciprocal agreements as permitted by
 24 section 14-535, Idaho Code, need not be listed.

25 (2) The list maintained by the administrator must contain:

26 (a) The names, in alphabetical order, of persons listed in any report of
 27 abandoned property filed with the administrator and entitled to notice;

28 (b) A statement that information concerning the property may be
 29 obtained by any person possessing an interest in the property by
 30 addressing an inquiry to the administrator;

31 (c) A statement that the property is in the custody of the administrator
 32 and all claims must be directed to the administrator; and

33 (d) A statement that the property shall escheat to the state of Idaho
 34 and become the property of the state of Idaho if not claimed within ten
 35 (10) years after it is received by the administrator.

36 (3) The administrator is not required to list any items of less than one
 37 hundred dollars (\$100) unless the administrator considers the inclusion of
 38 such property in the list to be in the public interest.

39 (4) This section is not applicable to sums payable on traveler's
 40 checks, money orders, and other written instruments presumed abandoned
 41 under section 14-504, Idaho Code.

42 SECTION 4. That Section 14-523, Idaho Code, be, and the same is hereby
 43 amended to read as follows:

44 14-523. DISPOSITION OF MONEY RECEIVED. (1) All money received under
 45 this chapter, including the proceeds from the sale of property under section
 46 14-522, Idaho Code, shall be deposited in the unclaimed property account.

(2) An amount equal to the funds received from unclaimed shares and dividends of any corporation incorporated under the laws of the state of Idaho shall be transferred from the unclaimed property account to the public school permanent endowment fund created pursuant to section 4, article IX, of the constitution of the state of Idaho. In the event that any funds are required to refund any funds deposited in the public school permanent endowment fund under this section or under section 14-113 or 15-3-914, Idaho Code, the state ~~tax commission~~ treasurer shall offset the amount of such refund against future transfers to the public school permanent endowment fund. In the event that in one (1) fiscal year there are insufficient amounts to effect the offset, the balance shall be recaptured from the public school earnings reserve fund established under section 33-902A, Idaho Code.

(3) All other money in the unclaimed property account is hereby continuously appropriated to the state ~~tax commission~~ treasurer, without regard to fiscal years, for expenditure in accordance with law in carrying out and enforcing the provisions of this chapter, including, but not limited to, the following purposes:

(a) For payment of claims allowed by the state ~~tax commission~~ treasurer under the provisions of this chapter.

(b) For refund, to the person making such deposit of amounts, including overpayments, deposited in error in such account.

(c) For payment of the cost of appraisals incurred by the state ~~tax commission~~ treasurer covering property held in the name of the account.

(d) For payment of the cost incurred by the state ~~tax commission~~ treasurer for the purchase of lost instrument indemnity bonds, or for payment to the person entitled thereto, for any unpaid lawful charges or costs which arose from holding any specific property or any specific funds which were delivered or paid to the state ~~tax commission~~ treasurer, or which arose from complying with this chapter with respect to such property or funds.

(e) For payment of amounts required to be paid by the state as trustee, bailee, or successor in interest to the preceding owner.

(f) For payment of costs of official advertising in connection with the sale of property held in the name of the account.

(g) For transfer to the general fund as provided in subsection (4) of this section.

(h) For transfer to the inheritance tax account of the amount of any inheritance taxes determined to be due and payable to the state by any claimant with respect to any property claimed by him under the provisions of this chapter.

(4) At the end of each month, or more often, if it deems it advisable, the state ~~tax commission~~ treasurer shall transfer all money in the unclaimed property account in excess of two hundred fifty thousand dollars (\$250,000) to the general fund. Within sixty (60) days of making this transfer, it shall record the name and last known address, if available, of each person appearing from the holder's report to be entitled to the property. The record shall be available for public inspection at all reasonable business hours.

(5) All money received under this chapter, including the proceeds from the sale of property under section 14-522, Idaho Code, deposited in the

1 general fund shall be retained by the state of Idaho for the purposes of this
 2 section and administered pursuant to this section for a period of ten (10)
 3 years. At the end of such period, those moneys which have not been claimed
 4 and paid over or delivered as an allowed claim under this section and section
 5 14-524, Idaho Code, shall become due and payable by escheat to the state of
 6 Idaho and become the property of the state of Idaho without further action on
 7 the part of the administrator.

8 SECTION 5. That Section 14-532, Idaho Code, be, and the same is hereby
 9 amended to read as follows:

10 14-532. ENFORCEMENT -- ACTIONS TO ENFORCE UNCLAIMED PROPERTY LAW
 11 -- ADMINISTRATIVE RULES. (a) The collection and enforcement procedures
 12 provided by the Idaho income tax act, sections 63-3038, 63-3039, and 63-3042
 13 through 63-3065A, Idaho Code, but excluding subsection (6) of section
 14 63-3045, Idaho Code, shall apply and be available to the state ~~tax commission~~
 15 treasurer for enforcement of the provisions of this chapter and collection
 16 of any property required to be transferred shall be treated in the same
 17 manner as taxes due the state of Idaho, and wherever liens or any other
 18 proceedings are defined as income tax liens or proceedings, they shall, when
 19 applied in enforcement of this chapter, be described as unclaimed property
 20 liens and proceedings.

21 (b) The powers and duties held by the state tax commission on June 30,
 22 2010, pursuant to the provisions of subsection (a) of this section, shall
 23 for the purposes of this chapter and for the administration of the unclaimed
 24 property, be deemed to be powers and duties of the state treasurer on and
 25 after July 1, 2010.

26 (c) The administrative rules of the state tax commission in effect on
 27 June 30, 2010, for administering the provisions of this chapter shall remain
 28 in force and effect as if promulgated by the state treasurer until new rules
 29 are promulgated by the state treasurer and become effective pursuant to the
 30 provisions of section 67-5224, Idaho Code, at which time rules promulgated
 31 by the state tax commission shall be deemed repealed. The state treasurer
 32 shall have the power to promulgate administrative rules to implement the
 33 provisions of this chapter in compliance with chapter 52, title 67, Idaho
 34 Code.

35 SECTION 6. That Section 14-534, Idaho Code, be, and the same is hereby
 36 amended to read as follows:

37 14-534. STATE HISTORICAL SOCIETY USE OF PROPERTY. The director of
 38 the state historical society may examine any tangible personal property
 39 delivered to the state ~~tax commission~~ treasurer under this chapter for
 40 purposes of determining whether such property is of sufficient historical
 41 value that it should be preserved. If he so determines, the state ~~tax~~
 42 ~~commission~~ treasurer may deliver such property to the state historical
 43 society for preservation and display, until such time as the owner shall make
 44 claim for return of such property.

45 SECTION 7. This act shall be in full force and effect on and after July
 46 1, 2010. All employees employed by the State Tax Commission on June 30,

1 2010, in administering the State Unclaimed Property Law, and all tangible
2 personal property of the State Tax Commission for those employees used
3 in administering the Unclaimed Property Law shall be transferred to the
4 State Treasurer on July 1, 2010. All moneys that have been appropriated
5 to and have been encumbered by the State Tax Commission for administering
6 the Unclaimed Property Law shall be transferred to the State Treasurer.
7 All moneys appropriated to the State Tax Commission for administration of
8 the State Unclaimed Property Law shall be deemed appropriated to the State
9 Treasurer for the same period and purpose. Any employee who is a classified
10 employee pursuant to chapter 53, title 67, Idaho Code, of the State Tax
11 Commission which is transferred to the State Treasurer shall remain a
12 classified employee until such employee terminates, resigns or leaves the
13 current position he or she holds. At that time the position shall become a
14 nonclassified position pursuant to chapter 16, title 59, Idaho Code.